

REGULAR MEETING
September 13, 2004

The Regular Meeting of the Annapolis City Council was held on September 13, 2004 in the Council Chamber. Mayor Moyer called the meeting to order at 7:40 p.m.

Present on Roll Call: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter

Staff Present: City Attorney Spencer, miron, elliott

August 25, 2004

Closed Session: Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-508 this statement is included in these minutes:

A closed session of the City Council was held at 6:02 p.m., Wednesday, August 25, 2004 in the City Council Chamber.

Present: Mayor Moyer, Aldermen Tolliver, Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter, City Administrator Agee, Finance Director Elliott, Public Information Officer Hardesty

By unanimous consent of the members present, the session was closed. The authority under which the session was closed was Maryland Annotated Code, State Government Article, Section 10-508(a)(7)(8). The purpose of the meeting was to consult with counsel to obtain legal advice on a legal matter and to consult with staff, consultants, or other individuals about pending or potential litigation relative to Chesapeake Harbour. Action taken: following discussion, the City Council authorized the City Attorney to enter into settlement negotiations.

September 13, 2004

Closed Session: Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-508 this statement is included in these minutes:

A closed session of the City Council was held at 7:35 p.m., Monday, September 13, 2004 in the Mayor's Conference Room.

Present: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter, City Administrator Agee, Finance Director Elliott

By unanimous consent of the members present, the session was closed. The authority under which the session was closed was Maryland Annotated Code, State Government Article, Section 10-508(a)(7)(8). The purpose of the meeting was to consult with counsel to obtain legal advice on a legal matter and to consult with staff, consultants, or other individuals about pending or potential litigation relative to Chesapeake Harbour. Action taken: Following discussion, the City Attorney advised of the settlement.

- Alderman Hammond moved to approve the Journal of Proceedings for July 12, 2004, July 26, 2004, Special Meeting August 25, 2004, Closed Meeting August 25, 2004. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

1. Robert Smith, 103 S. Cherry Grove Avenue, Annapolis, Maryland spoke regarding parked cars with for sale signs.
 2. Patti DiMicheli, 1030 Hyde Park Drive, Annapolis, Maryland spoke regarding emergency preparedness.
 3. Walter Jacobs, 237 Cape Saint John Road, Annapolis, Maryland, spoke in favor of O-15-04.
 4. Jim Martin, 1-B-5 Cherry Grove Avenue, Annapolis, Maryland spoke regarding the Knighton Garage.
 5. Brian Cahalan, 49 West Street, Annapolis, Maryland spoke regarding the Knighton Garage.
 6. Tony Evans, 3 Constitution Square, Annapolis, Maryland regarding the Market House.
- Alderman Cordle moved to add the Chesapeake Harbour settlement negotiations report to Business and Miscellaneous. Seconded. CARRIED on voice vote

LEGISLATIVE ACTION

ORDINANCES

O-11-04 For the purpose of changing the valuation criteria for removed or damaged trees that have been designated for preservation on the landscaping plan, or are outside the limits of development, from a financial valuation system to a replacement policy with limited exceptions, and all matters generally relating to said tree valuation and replacement.

Alderman Hammond moved to adopt O-11-04 on second reading. Seconded.

The Economic Matters and Environmental Matters Committees reported favorably on O-11-04.

Alderman Hammond moved to amend O-11-04 as follows:

Amendment #1 *[In order to make Chapter 17.09. easier to read and understand, the original legislation has been reformatted to include a table, eliminate duplicative language, capitalize proper names and to make other editorial adjustments. No substantive changes are being made by this amendment.]*

Strike the entire ordinance from page 1, line 1 through page 13, line 7 and substitute the following:

CITY COUNCIL OF THE CITY OF ANNAPOLIS

ORDINANCE NO. O-11-04

Introduced by Mayor Moyer

AN ORDINANCE concerning

Valuing and Replacing Trees in Development Areas

FOR the purpose of changing the valuation criteria for removed or damaged trees that have been designated for preservation on the landscaping plan, or are outside the limits of development, from a financial valuation system to a replacement policy with limited exceptions, and all matters generally relating to said tree valuation and replacement.

* * * * *

BY repealing in its entirety
Section 17.09.080
Code of the City of Annapolis
(1996 Edition and Supplement)

BY repealing and re-enacting, with amendments the following sections of the Code of the City of Annapolis, (1996 Edition and Supplement)
Section 17.09.030
Section 17.09.070
Section 17.09.140

Section 17.09.030 Landscape plan.

A. Landscape Plan. Any application for a building or grading permit submitted in accordance with the requirements of this title, or any application for a development project requiring site design review in accordance with the requirements of Chapter 21.98, shall include a landscape plan at a scale of one inch to forty feet. The landscape plan shall be considered a part of the permit or site plan design review application and shall be subject to the review requirements and administrative procedures of this title or Chapter 21.98, whichever shall apply.

B. Submittal Requirements. A landscape plan submitted in accordance with this chapter shall include:

1. Limits of Disturbance (LOD). Within the limits of disturbance and within fifteen feet of the LOD, the location, diameter at breast height (DBH), and species of all existing trees equal to or greater than five inches DBH. If the size of the parcel and the number of affected trees renders the individual identification of all trees unreasonable, as mutually determined by the applicant and the **d**Department of **n**Neighborhood and **e**Environmental **p**Programs, accepted methods of forest cruising may be substituted, although all individual trees in excess of twelve inches DBH must be individually identified;

2. Limits of Project Development. Depict building footprints, access drives, parking areas, public streets, existing and proposed utilities and stormwater management structures, proposed finished grades, and sediment and erosion control structures;

3. All trees, regardless of size, or tree areas within the legal boundaries of the property which are to be preserved for incorporation into the proposed site design, noting all tree driplines;

4. Tree preservation details, in accordance with Sections 17.09.040 and 17.09.050 of this chapter;

5. Locations of trees to be replaced under Section 17.09.070 of this chapter, and areas proposed for additional landscaping. The plan shall show:

a. The tree name, both botanical and common,

- b. Quantity of each species used in the plan,
 - c. Caliper measured six inches above ground,
 - d. Type of rootstock, and
 - e. Typical planting detail;
 - 6. Proposed and required buffer areas;
 - 7. Substantive agreement with the site plan design review as required by Chapter 21.98 of this code;
 - 8. Conformance with all applicable sections of this chapter;
 - 9. Other relevant information as may be required by the d**D**epartment of n**N**eighborhood and e**E**nvironmental p**P**rograms.
- C. Guidelines for Selecting Trees for Preservation. In determining which trees shall be preserved in the development process, consideration shall be given to preserving those which:
- 1. Complement the project design, including the enhancement of building architecture and street-scape appearance;
 - 2. Exhibit strong branching and rooting capabilities and are disease and insect resistant;
 - 3. Are tolerant of environmental change, e.g., increased sunlight, heat, wind, alteration of water regime;
 - 4. Provide a good source of food, cover or nesting sites for wildlife, or act as a wildlife corridor;
 - 5. Exist in natural groupings, including islands of trees and wildlife corridors;
 - 6. Complement stormwater management designs;
 - 7. Augment or do not conflict with sedimentation and erosion control designs;
 - 8. Do not conflict with existing utilities or proposed utility installation;
 - 9. Do not have proposed structures, sidewalks, roads, parking lots etc. within driplines;
 - 10. Are specimens for the particular species or have recognized significance;
 - 11. Are within proposed buffer areas;
 - 12. Are recommended for preservation by Maryland Forest, Parks and Wildlife Service (or its successor agencies); or
 - 13. Are recommended for preservation by the d**D**epartment of n**N**eighborhood and e**E**nvironmental p**P**rograms for some other reason demonstrated to be in furtherance of the purposes of this chapter as set forth in Section 17.09.020.

D. Conflicting Criteria. In the event that two or more conflicting guidelines are present in the evaluation of the preservation of trees on a site, consideration shall be given to those criteria most relevant to the planned use of the proposed development.

E. Applicability. No cutting, clearing, digging or grading may be undertaken within a development area until a landscaping plan has been approved. Neither may any landscaping be undertaken until approval of the permit application and subsequent issuance of the permit.

F. Replacement Value ~~or of~~ Removed/Damaged Trees. Any trees which have been designated for preservation on the landscaping plan, or are outside the limits of development, and subsequently have been removed or damaged within the boundaries of the property under development, or any adjacent properties, shall be replaced at a value not to exceed the value of each tree as established by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," prepared by the International Society of Arboriculture. A bond may be required for trees designated for preservation according to this value consistent with the mitigation requirements in Section ~~17.090.080(B)(3)~~ 17.09.070.C.

G. Exceptions.

1. A landscape plan shall not be required under the terms of this chapter where the applicant can demonstrate clearly that there are no existing trees or tree areas within the proposed limits of development.

2. A landscaping plan shall not be required for the regular maintenance of existing public utilities or the approved installation of public utilities, nor shall a replacement value be required or assessed.

3. The provisions of this chapter do not apply to projects which were granted special exception approval, or building or grading permit approval prior to November 15, 1988, provided that they are in conformance with all other approved plans and conditions.

Section 17.09.070 Replacement value--Mitigation--Fee in lieu--Exceptions.

A. Replacement Trees. It is the intent of this section to ensure that landscaping proposed in association with development will reflect the density and species of those trees necessarily removed for development. Therefore, trees removed for development shall be replaced according to the following requirements:

~~1. Individual trees of from five up to eight inches DBH shall be replaced on a basis of one replacement tree for every four trees removed. Areas of natural vegetation, shrub-scrub vegetation, and saplings less than one-inch DBH shall be replaced on a basis of one shrub or sapling for every 40 square feet of vegetation removed.~~

~~2. Individual trees of from eight ~~six~~ up to twelve inches DBH shall be replaced on a basis of one replacement tree for every two trees removed.~~

~~3. Individual trees of from twelve up to eighteen inches DBH shall be replaced on a basis of one replacement tree for every single tree removed.~~

~~4. Individual trees of from eighteen up to twenty-four inches DBH shall be replaced on a basis of two replacement trees for every single tree removed.~~

~~5. Individual trees of DBH greater than twenty-four inches shall be replaced on a basis of three replacement trees for every single tree removed.~~

~~6. Regardless of the final total of replacement trees established according to these requirements, there must be at least one replacement tree.~~

1. The number of trees to be replaced are contained in the following table:

Table 17.09.070: Tree Replacement Requirements

	Number to be replaced for number removed				
Plant Material Size	Outside Critical Areas	Intensely Developed Areas	Limited Development Areas	Resource Conservation Areas	100 foot Buffer Critical Area
Scrub shrub - sapling <1" DBH	no replacement	1 for every 20 square feet	1 for every 40 square feet	Area basis for area basis	Must obtain approved buffer management plan from the Department of Planning and Zoning
Trees 1 to 4" DBH	no replacement	1 for 1	1 for 2		
Trees 4 to 12" DBH	1 for 2	2 for 1	1 for 1		
Trees 12 to 18" DBH	1 for 1	3 for 1	2 for 1		
Trees 18 to 24" DBH	2 for 1	4 for 1	3 for 1		
Trees >24" DBH	3 for 1	6 for 1	4 for 1		
Additional requirements found in Section	17.09.070	17.09.070 (G)(1-2)	17.09.070 (H)(1-5)	17.09.070 (I)(1-2)	17.09.070 (J)(1-8)

~~7~~². One or more trees may be transplanted as replacement trees from areas designated to be cleared on a development site; however transplanted trees shall only be used when a professional nursery, landscape contractor, or similar professional qualified to do this work, is employed to transplant the trees. This professional shall meet with City staff prior to moving any trees to ensure that the trees to be moved are healthy and suitable for transplanting.

~~8~~³. ~~Deciduous Replacement trees of nursery stock~~ shall be a species native to Maryland and shall be healthy, free of pests or disease and in good condition. Deciduous species shall be a minimum of two inches in caliper measured six inches from the ground. ~~Coniferous replacement trees of nursery stock~~ shall be a minimum of five feet in height. Transplanted trees shall be, at a minimum, of the approximate size as ~~replacement trees required from nursery stock~~ and shall be healthy, free of pests or disease and in good condition of good appearance and in apparent good health.

~~9~~⁴. Any landscaping requirements imposed under other sections of this code shall include any and all replacement trees.

~~10~~⁵. Any waiver or modification to these requirements shall be made in accordance with Section 17.09.130 of this chapter.

B. Mitigation. If the number of trees to be planted, as determined by the tree replacement requirements, exceeds the number of trees which can be accommodated practically on site as determined by the ~~d~~Department of ~~n~~Neighborhood and ~~e~~Environmental ~~p~~Programs, off-site planting may be requested at locations as determined by the developer and/or the ~~d~~Departments of ~~n~~Neighborhood and ~~e~~Environmental ~~p~~Programs and ~~p~~Planning and ~~z~~Zoning, or a fee in lieu of off-site planting may be required as provided in subsection C of this section. Trees removed for development within the critical area must be replaced within the critical area.

C. Fee in Lieu. Where, pursuant to subsection A of this section, replacement on site is not practical and an off-site location cannot be determined and agreed upon by the developer and the ~~d~~Department of ~~n~~Neighborhood and ~~e~~Environmental ~~p~~Programs, a fee in lieu may be assessed which is adequate to ensure an equivalent tree replacement as required by subsection A of this section. In-ground cost plus ~~ten percent will be estimated~~ twenty percent will be estimated by a commercial nursery, landscape contractor, or similar professional and provided by the applicant or developer to the ~~d~~Department of ~~n~~Neighborhood and ~~e~~Environmental ~~p~~Programs for approval. All funds collected by this process will be expended exclusively for tree planting and tree maintenance within the city under the auspices of the urban forestry program and, wherever possible, within reasonable proximity to the development from which fees are collected for planting. Fees in lieu collected for trees removed within the critical area shall be expended exclusively for tree planting and tree maintenance within the critical area, and if possible within the same creek watershed.

1. The fee in lieu amount shall be an estimate of the in-ground cost of the required planting plus a twenty percent (20%) charge for administration and implementation by the City. The applicant or developer shall provide an estimate prepared by a commercial nursery, landscape contractor, or similar professional to the ~~d~~Department of ~~n~~Neighborhood and ~~e~~Environmental ~~p~~Programs for approval.

2. All funds collected by this process will be expended exclusively for tree planting and tree maintenance within the City under the auspices of the urban forestry program and, wherever possible, within reasonable proximity to the development from which fees are collected for planting.

3. Fees in lieu collected for trees removed within the critical area shall be expended exclusively for tree planting and tree maintenance within the critical area, and if possible within the same creek watershed.

D. Exceptions. The following trees removed for development are not subject to the requirements of subsections A, B and C of this section:

1. Trees removed for the construction of approved roads and the installation or maintenance of public utilities.

a. Approved roads include city required public roads and fire lanes, but does not include any portion of a parking lot.

b. Public utilities include gas, electric, water and sewer main transmission lines, and stormwater management structures within required easements;

2. Trees which have been confirmed by the dDepartment of nNeighborhood and eEnvironmental pPrograms to be hazardous, dead, dying or diseased;

3. Trees transplanted from one part of a development site to another; and

~~4. Trees located in the critical area as defined by the sState of Maryland, the mitigation and replacement of which shall be subject to the requirements of Section 17.09.080 of this chapter.~~

E. General Applicability. Except as provided by subsection D of this section, the requirements of this section apply to all development and construction undertaken pursuant to any grading permit or pursuant to any building permit for construction which may involve the disturbance of land but for which a grading permit previously was not required.

F. Minimum Standards. Afforestation and reforestation as required by the Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16 (or its successors) shall be a minimum standard for the replacement and planting of trees where Chapter 17.09 of the eCity eCode applies, regardless of the square footage of the area disturbed.

G. The locations of intensely developed areas, limited development areas, resource conservation areas and the critical area buffer are shown on the approved critical areas map for the City of Annapolis and its amendments. Proposed development shall be consistent with the approved Critical Areas Plan for the City of Annapolis.

H. Additional standards for Limited Development Areas

1. Under normal circumstances, no more than twenty percent of any forest or woodland may be removed from forest use, except as permitted in subsection (C)(3) of this section. The remaining eighty percent shall be maintained through recorded, restrictive covenants or similar instruments.

2. A developer may clear or develop up to thirty percent of any forest or woodland, provided that the afforested area shall be 1.5 times the total surface acreage of the disturbed forest or developed woodland. The remaining seventy percent shall be maintained through recorded, restrictive covenants or other similar instruments.

3. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least fifteen percent of

the total surface area of the site.

4. Forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in subsection (C)(3) of this section shall be planted at three times the areal extent of the cleared forest.

5. The developer shall consider the recommendations of the Maryland Forest, Parks and Wildlife Service when planning development on forested lands.

I. Additional standards for Resource Conservation Areas

1. The overall acreage of forest and woodland within the resource conservation area may not be decreased.

2. Any development within a resource conservation area that requires the cutting or clearing of trees must replace the trees on a not less than an equal area basis, except where trees are removed according to subparagraphs 4, 6 and 8 of subsection E of this section.

J. Additional Standards for the Critical Area Buffer

1. A one-hundred-foot buffer is established landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands which is a protected area.

2. New development activities, including structures, roads, parking areas and other impervious surfaces, mining or related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.

3. The buffer shall be maintained in natural vegetation, but may include planted vegetation as approved by the Department of Neighborhood and Environmental Programs where necessary to protect, stabilize or enhance the shoreline.

4. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install and construct a shore erosion protection device or measure, or a water-dependent facility, provided the device, measure or facility has received all necessary city, state, and federal permits.

5. With the concurrence of the Department of Neighborhood and Environmental Programs individual trees may be cut for personal use providing that this cutting does not impair the water quality or existing habitat value or other functions of the buffer, and provided that the trees are replaced on an equal area basis for each tree cut.

6. With the concurrence of the Department of Neighborhood and Environmental Programs, individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion.

7. Horticultural practices shall be used to maintain the health of individual trees.

8. Other cutting techniques may be permitted within the one-hundred-foot buffer and under the advice and guidance of the Department of Neighborhood and Environmental Programs, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.

K. Forest Preservation Plan. The forest preservation plan as described within the approved critical areas program for the City of Annapolis shall be consistent with the

provisions of this chapter.

L. Forest Undeveloped Wood Land. Where forests or developed woodland occur within the City of Annapolis, local policies and programs for tree cultural operations in the critical area shall be consistent with the critical area program of the City of Annapolis.

M. Applicability. The requirements of this section are in addition to, and not in lieu of, any and all requisites of Chapter 17.09.

N. Restrictions. The requirements of this section do not restrict the removal of hazardous, dead, dying or diseased trees, although replacement may be required as determined by the Department of Neighborhood and Environmental Programs, nor are accepted horticultural practices restricted.

O. Variance Procedures. Variance procedures shall be in accordance with the approved critical areas plan of the City of Annapolis.

P. Minimum Standards. The provisions of the Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16,(or its successors) do not apply to the critical area, except that afforestation and reforestation as required by the Act shall be a minimum standard for the replacement and planting of trees.

Section 17.09.080 Critical area:

A. Critical Areas Map. The locations of intensely developed areas, limited development areas, resource conservation areas and the critical area buffer are shown on the approved critical areas map for the city of Annapolis and its amendments.

B. Guidelines for Intensely Developed Areas:

1. Areas of natural vegetation are to be maximized.

2. When the cutting or clearing of trees is associated with development activities, a detailed landscape plan shall be developed showing street tree plantings, buffer plantings and landscaping:

3. Replacement shall be accomplished in accordance with the value of the trees removed as determined by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens" prepared by the International Society of Arboriculture:

4. Off-site mitigation shall be consistent with Section 17.09.070 (B) of this chapter.

5. Fee in lieu shall be consistent with subsection (B)(3) of this section.

6. Proposed development shall be consistent with the approved critical areas plan for the city of Annapolis.

C. Guidelines for Limited Development Areas:

1. All trees that are allowed to be removed shall be replaced in the critical area on a not less than an equal area basis.

2. Under normal circumstances, no more than twenty percent of any forest or

~~woodland may be removed from forest use, except as permitted in subsection (C)(3) of this section. The remaining eighty percent shall be maintained through recorded, restrictive covenants or similar instruments.~~

~~3. A developer may clear or develop up to thirty percent of any forest or woodland, provided that the afforested area shall be 1.5 times the total surface acreage of the disturbed forest or developed woodland. The remaining seventy percent shall be maintained through recorded, restrictive covenants or other similar instruments.~~

~~4. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least fifteen percent of the total surface area of the site.~~

~~5. Forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in subsection (C)(3) of this section shall be planted at three times the areal extent of the cleared forest.~~

~~6. The developer shall consider the recommendations of the Maryland Forest, Parks and Wildlife Service when planning development on forested lands.~~

~~7. Off-site mitigation shall be consistent with Section 17.09.070 of this chapter.~~

~~8. Fee in lieu shall be consistent with Section 17.09.070 (C) of this chapter and shall be adequate to ensure equivalent replacement consistent with subsection C of this section.~~

~~9. Proposed development shall be consistent with the approved critical areas plan for the city of Annapolis.~~

~~D. Guidelines for Resource Conservation Areas:~~

~~1. The overall acreage of forest and woodland within the resource conservation area may not be decreased.~~

~~2. Any development within a resource conservation area that requires the cutting or clearing of trees must replace the trees on a not less than an equal area basis, except where trees are removed according to subparagraphs 4, 6 and 8 of subsection E of this section.~~

~~3. Fee in lieu shall be consistent with Section 17.09.070 (C) of this chapter, and shall be adequate to ensure equivalent replacement consistent with subsection D of this section.~~

~~4. Proposed development shall be consistent with the approved critical areas plan for the city of Annapolis.~~

~~E. Guidelines for the Critical Area Buffer:~~

~~1. A one-hundred-foot buffer is established landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands which is a protected area.~~

~~2. New development activities, including structures, roads, parking areas and other impervious surfaces, mining or related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.~~

~~3. The buffer shall be maintained in natural vegetation, but may include planted vegetation~~

~~as approved by the department of neighborhood and environmental programs where necessary to protect, stabilize or enhance the shoreline.~~

~~4. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install and construct a shore erosion protection device or measure, or a water-dependent facility, provided the device, measure or facility has received all necessary city, state, and federal permits.~~

~~5. With the concurrence of the department of neighborhood and environmental programs, individual trees may be cut for personal use providing that this cutting does not impair the water quality or existing habitat value or other functions of the buffer, and provided that the trees are replaced on an equal area basis for each tree cut.~~

~~6. With the concurrence of the department of neighborhood and environmental programs, individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion.~~

~~7. Horticultural practices shall be used to maintain the health of individual trees.~~

~~8. Other cutting techniques may be permitted within the one-hundred-foot buffer and under the advice and guidance of the department of neighborhood and environmental programs, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.~~

~~F. Forest Preservation Plan. The forest preservation plan as described within the approved critical areas program for the city of Annapolis shall be consistent with the provisions of this chapter.~~

~~G. Forest Undeveloped Wood Land. Where forests or developed woodland occur within the city of Annapolis, local policies and programs for tree cultural operations in the critical area shall be consistent with the critical area program of the city of Annapolis.~~

~~H. Applicability. The requirements of this section are in addition to, and not in lieu of, any and all requisites of Chapter 17.09.~~

~~I. Restrictions. The requirements of this section do not restrict the removal of hazardous, dead, dying or diseased trees, although replacement may be required as determined by the department of neighborhood and environmental programs, nor are accepted horticultural practices restricted.~~

~~J. Variance Procedures. Variance procedures shall be in accordance with the approved critical areas plan of the city of Annapolis.~~

~~K. Minimum Standards. The provisions of the Maryland Forest Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle 16, (or its successors) do not apply to the critical area, except that afforestation and reforestation as required by the Act shall be a minimum standard for the replacement and planting of trees.~~

Section 17.09.140 Enforcement--Violation--Penalties.

A. Enforcement. The administration and enforcement of this chapter shall be the responsibility of the dDepartment of nNeighborhood and eEnvironmental pPrograms.

B. Violation. Violation of this chapter may be cause for the developer to be required to stop work until a satisfactory resolution is established by the dDepartment of

nNeighborhood and eEnvironmental pPrograms in consultation with the pPlanning and zZoning dDepartment and the developer.

C. Penalties. Any developer who violates this chapter is guilty of a municipal infraction and is subject to a fine ~~as established by resolution of the city council~~ of one hundred dollars for any single, initial violation and a fine of one hundred dollars for each repeat or continuing violation. The unapproved removal of a single tree constitutes a single violation and each day a violation continues without abatement or mitigation will be considered a separate violation with fines as established by resolution of the city council. If any trees shown to be preserved on the approved plan subsequently are removed or are dead or dying because of acts of negligence by a developer, this shall be considered a violation and fines shall be assessed. ~~they~~ The trees shall be replaced by the developer, or the developer shall be assessed a fee in lieu. The size, species and quantity of replacement trees or fee in lieu shall be specified by the dDepartment of ~~public works~~ nNeighborhood and eEnvironmental pPrograms and shall be consistent with section ~~17.090.080(B)(3)~~ 17.09.070.C. If necessary, off-site locations identified by the department may be utilized if there are constraints on the site. ~~based upon the value of the trees that were to have been saved as determined by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," prepared by the International Society of Arboriculture. The quantity shall be dictated by the constraints of the site.~~ Replacement shall be within a time frame specified by the dDepartment of ~~public works~~ nNeighborhood and eEnvironmental pPrograms.

D. Replacement Trees. In addition to any other penalty or requirement that may be imposed under this section, if any trees shown to be preserved on the approved plan subsequently are removed or are dead or dying because of acts of negligence by a developer, they shall be replaced by the developer. ~~or the developer shall be assessed a fee in lieu of replacement.~~ The size, species and quantity of replacement trees or fee in lieu of replacement shall be specified by the dDepartment of nNeighborhood and eEnvironmental pPrograms based upon ~~Section 17.090.080(B)(3)~~ 17.09.070.C, ~~the value of the trees that were to have been saved as determined by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," prepared by the International Society of Arboriculture.~~ The quantity shall be dictated by the constraints of the site. Replacement shall be within a time frame specified by the dDepartment of nNeighborhood and eEnvironmental pPrograms.

E. Appeals. The bBuilding bBoard of aAppeals shall consider appeals from the provisions of this chapter from the determination of the dDirector of nNeighborhood and eEnvironmental pPrograms in the manner specified in the building code. The bBoard may make determinations of alternative methods, standards or materials when, in its opinion, strict compliance with this chapter is unnecessary. The provisions of this subsection shall not apply to any municipal citation issued pursuant to section.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt O-11-04 amended on third reading. Seconded. CARRIED on voice vote.

O-14-04 For the purpose of permitting, under certain circumstances, an amount of money equal to or greater than the aggregate of connection, capital facility, and capital facility assessment charges to be used instead for the purpose of placing certain utilities underground; and matters generally relating to said

waiving of charges.

There being no voice objection, O-14-04 was postponed to the next Regular Meeting of the City Council.

- O-16-04 For the purpose of approving the leases for certain City-owned space in the Stanton Center to various organizations; and matters generally relating to said lease.**

There being no voice objection, O-16-04 was postponed to the next Regular Meeting of the City Council.

- O-17-04 For the purpose of making the service of alcohol to a person under the age of twenty-one years a municipal infraction rather than a misdemeanor; and matters generally relating to said service of alcohol to minors.**

Alderman Hammond moved to adopt O-17-04 on second reading. Seconded.

The Economic Matters Committee reported favorably on O-17-04.

The main motion CARRIED on voice vote.

Alderman Hammond moved to adopt O-17-04 on third reading. Seconded. CARRIED on voice vote.

- R-8-04 For the purpose of establishing in the Fines Resolution, the penalties for serving alcohol to persons under 21 years of age; and all matters relating to said penalty.**

Alderman Hammond moved to adopt R-8-04 on second reading. Seconded. CARRIED on voice vote.

- O-20-04 For the purpose of establishing the legal authority for the City to assume erosion and sediment control enforcement authority from the Maryland Department of the Environment, updating the City Code to be consistent with Chapter 26.17.01 of the Code of Maryland Regulations; and matters generally relating to said enforcement authority.**

Alderman Hammond moved to adopt O-20-04 on second reading. Seconded.

The Economic Matters Committee reported favorably on O-20-04.

The Environmental Matters Committee reported favorably with amendments.

Alderman Tolliver moved the Environmental Matters Committee amendments to O-20-04 as follows:

Amendment #1 [This amendment corrects spelling and numbering.]

On page 4, beginning in line 17 and continuing through line 32, renumber subsections 3 through 8 to be 1 through 6; and

On Page 6, in line 20, strike “distrubed” and substitute “disturbed”: and

On page 12, in line 10, strike “Specificaitions” and substitute “Specifications”; and

On page 12, in line 11, strike “ishall” and substitute “shall”; and

On page 12, in line 25, strike “investigae” and substitute “investigate”: and

On page 13, in line 8, strike "sediment" the first time it appears.

Amendment #2 [This amendment changes the sediment control inspection responsibility from Public Works to DNEP which is where the inspection responsibility and staff reside.]

On page 2, in line 18, strike "Department of Public Works" and insert "Department of Neighborhood and Environmental Programs"

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt O-20-04 amended on third reading. Seconded. CARRIED on voice vote.

O-23-04 For the purpose of increasing the threshold required for obtaining a building permit; and matters generally relating to said building permit.

Alderman Hammond moved to adopt O-23-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Economic Matters Committee

O-24-04 For the purpose of authorizing a lease of certain municipal property located in the harbor and Dock Street areas to the Maritime Heritage Festival, Inc., a body corporate, for a certain period of time, subject to certain terms, provisions, and conditions, for the purpose of conducting a maritime festival; and all matters relating to said lease.

Alderman Fox moved to adopt O-24-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Economic Matters Committee

O-25-04 For the purpose of allowing Residential Planned Developments that contain MPDUs and only residential uses to be Permitted Uses subject to standards; and matters generally relating to said uses.

Alderman Hammond moved to adopt O-25-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Rules and City Government Committee and Planning Commission

O-26-04 For the purpose of establishing a property tax credit to preserve the historic character of the community and to encourage the preservation, restoration and rehabilitation of structures in the Annapolis Historic district and designated Annapolis landmarks having historic or architectural value located within the City limits and to encourage architecturally compatible new construction as authorized by Section 9-204 of the Tax Property Article 9-204 of the Annotated Code of Maryland; and matters generally relating to said tax credit.

Alderman Hammond moved to adopt O-26-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Finance Committee and Economic Matters Committee

O-27-04 For the purpose of establishing a Sprinkler Assistance Revolving Fund to encourage the installation of sprinklers in older building throughout the City; and matters generally relating to said revolving fund.

Alderman Hammond moved to adopt O-27-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Economic Matters Committee

O-28-04 **For the purpose of updating the references in the City Code to reflect new editions of the various international construction codes upon which Title 17 is based; changing the term “building official” to “Code Official” to more accurately reflect the many types of inspections conducted; capitalizing proper titles; reorganizing and editing various sections for improving clarity and understanding; and matters generally relating to said chapter.**

Alderman Hammond moved to adopt O-28-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Economic Matters Committee

RESOLUTIONS

R-7-04 **For the purpose of approving an amended fee schedule pursuant to the adoption of the FY 2005 Annual Operating Budget for the City of Annapolis for the fiscal year beginning July 1, 2004 and ending June 30, 2005; and all matters relating to said fee schedule.**

- Alderman Tolliver moved to adopt R-7-04 on second reading. Seconded.

- Alderman Tolliver moved to amend R-7-04 as follows:

Amendment 1 *[To restore all proposed FY 2005 fees to FY 2004 levels except where new legislation or new facilities require the establishment of new fees. To delete narrative describing fees and conditions for Harbormaster and substitute fees in consistent format with all other fees. To delete monthly fee for Knighton Garage.]*

Strike the entire first reader attachment and substitute the attachment to the Environmental Matters Committee.

Economic Development Director Miron answered questions from council.

Seconded. CARRIED on voice vote.

-Alderman Hammond moved to amend R-7-04 as follows:

Amendment #2 *[To clarify that Building Permit Fees are to be paid at the time that they are picked up]*

In line 572, after “Permit Fees” add “(to be paid at time of permit pick-up)”

Amendment #3 *[To clarify that the permit fee for work over \$10,000 in value costs more than lesser value work.]*

Strike line 576 and substitute the following:

576		--\$10,000 and over is 0.7 percent of cost over \$10,000 plus	\$100.00
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Amendment #4 *[Technical correction. B&B/shuttle rider discount rate was inadvertently omitted.]*

Strike line 1064 and substitute the following:

965		Bed & breakfast - 50% discount	
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The main motion amended CARRIED on voice vote.

R-15-04 For the purpose of applying for the designation of Annapolis as a *Preserve America* Community; and matters generally relating to said designation.

Alderman Hammond moved to adopt R-15-04 on first reading. Seconded. CARRIED on voice vote.

R-16-04 For the purpose of waiving the fees for City services to be provided in connection with the Maryland Avenue Annual Street Festival to be held on October 2, 2004; and all matters relating to said waiver of fees.

Alderman Fox moved to adopt R-16-04 on first reading. Seconded. CARRIED on voice vote.

Alderman Hammond moved to suspend the rules to allow passage of the resolution at the meeting of its introduction. Seconded. CARRIED on voice vote.

Alderman Hammond moved to adopt R-16-04 on second reading. Seconded. CARRIED on voice vote.

R-17-04 For the purpose of increasing taxicab fares for taxicabs licensed by the City; and all matters relating to said taxicab rate increases.

Alderman Hammond moved to adopt R-17-04 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance Committee and the Public Safety Committee

BUSINESS AND MISCELLANEOUS

1. Market House Presentation

Procurement Officer Snyder presented a Memorandum to the Mayor and City Council dated September 13, 2004 regarding the Market House review.

Economic Development Director Miron was present and answered questions from Council.

2. Natural Hazard Mitigation Plan

Chief Environmentalist Biba presented the City Natural Hazard Mitigation Plan, Federal Disaster Management Act of 2000.

3. Preliminary Review of AIC Forest, LLC, for annexation of Map 51, Block 16, Parcel 222. Petition for annexation was filed on August 20, 2004.

Alderman Tolliver moved that the applicants work with the Finance, Public Works, and Planning and Zoning Departments to provide the necessary studies for proper consideration of this Petition. Seconded. CARRIED on voice vote.

4. Finance Committee Meeting Recommendations for Action dated July 28, 2004

Alderman Fox moved to receive the Finance Committee Recommendations dated May 20, 2004. Seconded. CARRIED on voice vote.

5. Payment of Monthly Bills

Alderman Carter moved to pay the monthly bills. Seconded. CARRIED on voice vote.

6. Appointments

Alderman Cohen moved to approve the Mayor's (re)appointments of the following individuals:

9/8/04 Human Relations Commission	LiAundra Calhoun
9/10/04 Historic Preservation Commission	Gregory J. Segreti
9/8/04 Historic Preservation Commission	Mary Burkholder
9/8/04 Historic Preservation Commission	Royal Hart

Seconded. CARRIED on voice vote.

- Alderman Hammond requested the record reflect her vote of abstention.

7. Civil Service Board minutes of August 30, 2004

Alderman Tolliver moved to receive the Civil Service Board minutes of August 30, 2004.
Seconded. CARRIED on voice vote.

- **Chesapeake Harbour Settlement Negotiations**

Alderman Cohen moved to accept the Chesapeake Harbour settlement. Seconded.
CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:32 p.m.

Deborah Heinbuch, MMC
City Clerk